

REMARKS

The Restriction Requirement mailed on July 11, 2006 has been reviewed. Applicant elects, **with traverse**, the claims directed to Group I. The pending claims 1-23 and 90 read on the elected species.

The Applicant respectfully asserts that the required restriction between Groups I-IV, discussed in paragraphs 3, 4, and 5 of the Restriction Requirement, is improper. In particular, the Applicant asserts that criteria of showing “a serious burden on the examiner” in examining the four related Groups together has not been met. See MPEP §803 and §808.02. The Examiner has classified Groups I-IV as follows: Group I – 607/49, Group II – 607/43, Group III – 607/48, Group IV – 607/63.

Class 607 subclass 43 is defined as “Correcting spinal deformities: This subclass is indented under subclass 2. Subject matter providing stimulation to muscles *attached to a backbone support structure* for eliminating or diminishing *spinal curvature* and other such deformities of *the spinal column*.” However, Group II, claims 24-42, is directed at “a method of relieving postural *instability*.” Among other things, independent claim 24 claims “the plurality of stimulation points are located symmetrically on both *legs*.” In addition, the specification of the present invention discusses “Postural stability is impaired in PD with abnormal postural *sway in stance*.” ¶ 10. Hence, Applicant asserts that subclass 43 is not an appropriate classification of Group II. Although no class and subclass completely describes the invention of Group II, class 607 subclass 49 may be the most appropriate classification for Group II because independent claim 24 recites “the plurality of stimulation points are located symmetrically on both legs.”

Class 607 subclass 63 is defined as “Promoting patient safety or comfort: This subclass is indented under subclass 2. Subject matter providing for the well-being or protection of a patient by limiting amplitude levels in the signal, disconnecting the patient from the generator, shutting off the generator in the event of circuit failure or unsafe operating condition.” However, Group IV, claims 60-71, is directed at “a method of reducing tremor for individuals having a movement disorder.” With regards to tremor, the specification discusses, among other things, “Movement disorders include . . . various chronic tremors” and “The hallmarks of the disease are

its motor features — *resting tremor*, rigidity, and akinesia/bradykinesia (inability to initiate movement and slowness of movement, respectively) and postural instability.” Group IV is not directed at “promoting patient safety or comfort” as defined. Hence, Applicant asserts that subclass 63 is not an appropriate classification of Group IV. Although no class and subclass completely describes the invention of Group IV, class 607 subclass 48 may be the most appropriate classification for Group IV.

In addition, although no class and subclass completely describes the invention of any of Groups I-IV, class 607 subclass 2 may alternatively be the most appropriate classification for each of Groups I-IV. The reason for this possible alternate classification is that subclass 48, of which subclass 49 is an indent, is defined as “Directly or indirectly stimulating motor muscles: This subclass is indented under subclass 2. Subject matter providing stimulation to those organs which produce movement or their controlling nerves to induce at least a quasi-normal movement of the associated body part.” However, the specification of the present application states, with regards to at least one embodiment of the present invention, that “the stimulation does not force muscle contraction and is not synchronized with the movement.” ¶ 29.

In particular, with regards to at least one embodiment, the specification states “The contraction of the muscle is not coincident with the stimulation prompt as would be the case with functional electrical stimulation. The cues are of insufficient amplitude to meet motor thresholds to induce contractions and are of inadequate duration to facilitate fused contractions” and “Stimulation levels will be most effective for relief of PD symptoms when stimulation facilitates central nervous system induced contraction of muscles associated with one or more stimulation points.” At least one claim in each of Groups I-IV recites similar limitations. Therefore, subclass 2 defined as “Subject matter wherein an electrical signal is generated for application to electrodes or other applicators to stimulate body tissue for effecting a cure or alleviation of the effects of an abnormal condition or injury, or to restore normal or quasi-normal operation to a body part or the monitoring or controlling of such generation” may be the most appropriate classification for Groups I-IV.

Regardless of which of subclasses 2, 48 and 49 is deemed the most appropriate classification of each of Groups I-IV, Applicant asserts that a separate field of search is not required for each of Groups I-IV. Due to the related nature of Groups I-IV and subclasses 2, 48, and 49, relevant art found in any of subclasses 2, 48, and 49 is potentially relevant to each of Groups I-IV. Therefore, the Examiner is likely to perform a prior art search in the same field of search for each of Groups I-IV. Since the field of search for each of Groups I-IV is the same, Applicant asserts that there would not be “a serious burden on the examiner if restriction is not required.” Therefore, Applicant asserts that the requirement for restriction between Groups I-IV, claims 1-71 and 90, is improper.

Similarly, the Applicant respectfully asserts that the required restriction between Groups V-VIII, discussed in paragraphs 6, 7, and 8 of the Restriction Requirement, is improper. In particular, the Applicant asserts that criteria of showing “a serious burden on the examiner” in examining the four related Groups together has not been met. See MPEP §803 and §808.02. The Examiner has classified Groups V-VIII as follows: Group V – 607/48, Group VI – 607/49, Group VII – 607/43, Group VIII – 607/48.

Class 607 subclass 43 is defined as “Correcting spinal deformities: This subclass is indented under subclass 2. Subject matter providing stimulation to muscles *attached to a backbone support structure* for eliminating or diminishing *spinal curvature* and other such deformities of *the spinal column*.” However, Group VII, claims 95-98, is directed at “A movement timing stimulator system for the treatment of *movement disorders*.” Among other things, independent claim 95 recites “the stimulation prompts are sequentially applied to relieve *postural instability* for the patient.” The specification of the present invention discusses “Postural stability is impaired in PD with abnormal postural *sway in stance*.” ¶ 10. Group VII is not directed at “eliminating or diminishing spinal curvature.” Hence, Applicant asserts that subclass 43 is not an appropriate classification of Group VII. Although no class and subclass completely describes the invention of Group VII, class 607 subclass 49 may be the most appropriate classification for Group VII because dependent claim 96 recites “the plurality of cutaneous stimulation electrodes are placed in the vicinity of motor points on *each leg*.”

Regardless of which of subclasses 48 and 49, is deemed the most appropriate classification of each of Groups V-VIII, Applicant asserts that a separate field of search is not required for each of Groups V-VIII. Due to the related nature of Groups V-VIII and subclasses 48 and 49, relevant art found in either of subclasses 48 and 49 is potentially relevant to each of Groups V-VIII. Therefore, the Examiner is likely to perform a prior art search in the same field of search for each of Groups V-VIII. Since the field of search for each of Groups V-VIII is the same, Applicant asserts that there would not be “a serious burden on the examiner if restriction is not required.” Therefore, Applicant asserts that the requirement for restriction between Groups V-VIII, claims 72-89 and 91-102, is improper.

In order to comply with the restriction requirement, Applicant elects Group I, claims 1-23 and 90. The claims of the non-elected invention, claims 24-89 and 91-102, are hereby withdrawn. However, Applicant reserves the right to reintroduce the claims of Groups II-IV, claims 24-71, in the event that the restriction requirement between Groups I-IV is withdrawn. In addition, Applicant reserves the right to later file continuation or divisional applications having claims directed to the non-elected inventions.

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Title: SYSTEMS AND METHODS FOR TREATING MOVEMENT DISORDERS

CONCLUSION

Applicant respectfully submits that claims **1-23 and 90** are in condition for allowance and notification to that effect is earnestly requested. If necessary, please charge any additional fees or credit overpayments to Deposit Account No. 502432.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 455-0610.

Respectfully submitted,

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